

**ORDINANCE NO. 08-44**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE V. ZONING DISTRICT REGULATIONS, DIVISION 16. C-2 LIBERAL RETAIL COMMERCIAL DISTRICT, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 98-1111 ENTITLED "PERMITTED USES" TO CLARIFY LANGUAGE REGARDING THE TRADE, PURCHASE OR SALE OF SECONDHAND JEWELRY FOR JEWELRY BUSINESSES AS A SECONDARY OR ANCILLARY BUSINESS; AND TO PROHIBIT ADVERTISING THAT WOULD MISLEAD THE PUBLIC INTO BELIEVING THAT THE PRIMARY BUSINESS OF THE JEWELRY STORE IS THE TRADE, SALE OR PURCHASE OF SECONDHAND JEWELRY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of January 23, 2008 recommended approval of this ordinance in substantial form; and

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the specific intent and purpose of this ordinance is to clarify language and curtail practices that violate the spirit and intent of the existing regulations that allowed for limited sales of secondhand jewelry for licensed jewelry businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 98 entitled "Zoning", Article V. Zoning District

Regulations, Division 16. C-2 Liberal Retail Commercial District, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 98-1111 entitled “Permitted uses”, to read as follows:

## **Chapter 98**

### **ZONING**

\* \* \*

#### **ARTICLE V. ZONING DISTRICT REGULATIONS**

\* \* \*

#### **DIVISION 16. C-2 LIBERAL RETAIL COMMERCIAL DISTRICT**

##### **Sec. 98-1111. Permitted uses.**

In the C-2 liberal retail commercial district, the permitted uses for land, buildings and other improvements are subject to the general conditions requiring that all storage of materials and products and all operations of work of every character are carried on entirely within the enclosing walls and under the roof of a building and the following:

\* \* \*

(21) Secondhand (merchandise) dealers and precious metals dealers—Distance requirements. Where either a secondhand (merchandise) dealer, as defined in article VIII of chapter 18, or precious metals dealer, as defined in article VII of chapter 18, is a permitted use, it shall not be located within a 2,000-foot radius of any other secondhand (merchandise) dealer or precious metals dealer use.

- a. *Exception.* The 2,000-foot radius distance separation requirement shall not apply to a precious

metals dealer and secondhand dealer if conducting an existing licensed jewelry business as follows:

1. Licensed jewelry business shall be the primary business, constituting, at a minimum, no less than 75 percent of the annual gross sales of the business. The city may request financial records to verify compliance with this requirement. Failure to provide such financial records will be grounds for revocation or suspension of occupational license.
2. Licensed activities involving secondhand goods limited to the ~~pawn~~ trade, purchase or sale of jewelry items only and in particular, limited to point-of-sale jewelry transactions of secondhand items or to credit transactions towards the purchase of jewelry. This activity shall not constitute more than 25 percent of annual gross sales of the business and shall be considered secondary to the existing jewelry business at the same location.
3. Operate business with no outdoor advertising or no exterior signs, or an interior sign otherwise visible from the street or other outside area that advertises or refers to pawning or lending money through the use of signs or symbols associating with pawn or money lending or that use the words "pawn", or "empeño", "cash for your jewels", "dinero por sus joyas", "prestamos sobre sus joyas" or other words or phrases that would convey a similar meaning. The business operator shall not utilize any artifice or scheme to circumvent the intent of this section.
4. The property owner and business owner, if applicable, signs a declaration of restrictive covenants incorporating these restrictions in the county public records in a form acceptable to the city.
5. The business operator shall not advertise the availability of services involving trading, purchasing or selling of secondhand jewelry in

a manner that would:

- i. lead a reasonable person to believe the operator is solely or primarily engaged in the provision of these services; or
- ii. appeal or attract members of the public to seek the services of the business operator solely for these purposes.

**Section 2:     Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3:     Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4:     Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5:     Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent

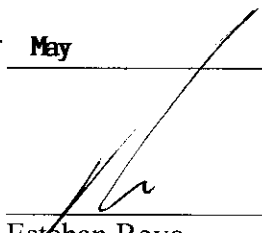
jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6:     Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

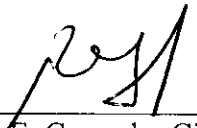
PASSED AND ADOPTED this 27th day of May, 2008.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

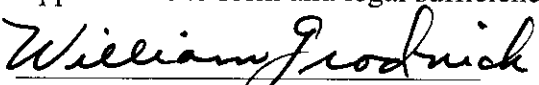
Attest:

Approved on this 29 day of May, 2008.

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

s:\wmg\legis\ord-2007\ch98amndsecondhandgoodsjewelrystore.doc

Ordinance was adopted by a 6-0-1 vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Hernandez, and Yedra voting "Yes" and Councilmember Gonzalez absent.